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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re R.G., a Person Coming Under the
Juvenile Court Law.

B214851

(Los Angeles County
Super. Ct. No. VJ37184)

THE PEOPLE,

Plaintiff and Respondent,

v.

R.G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Heidi W. Shirley, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed as modified.

David L. Polsky, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Keith H. Borjon and A. Scott Hayward, Deputy Attorneys General, for Plaintiff and Respondent.

The minor, R.G., was declared a ward of the court and placed home on probation. On appeal she contends the juvenile court erred in pronouncing a maximum term of confinement. We affirm the disposition order as modified.

FACTUAL AND PROCEDURAL BACKGROUND

The minor, then 14 years old, bit her stepfather when he attempted to take her cellular telephone. Following a contested jurisdiction hearing, the juvenile court found the minor had committed misdemeanor battery. (Pen. Code, §§ 242, 243.) At the disposition hearing, the minor was declared a ward of the court, (Welf. & Inst. Code, § 602)¹ and ordered home on probation in her mother's custody, subject to various terms and conditions. The court orally set a six-month maximum term of confinement.

DISCUSSION

Section 726, subdivision (c), provides: "If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court." "Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority." (§ 726, subd. (c).)

The People acknowledge minor's challenge to the juvenile court's order setting a maximum period of physical confinement is well taken. Because she was placed home on probation, the court's calculation of that maximum term is of no legal effect. (See *In re Ali A.* (2006) 139 Cal.App.4th 569, 572-574 [when minor placed home on probation, juvenile court is not required to include maximum term of confinement in disposition order; maximum term of confinement contained in such an order is of no legal effect]; *In re Joseph G.* (1995) 32 Cal.App.4th 1735, 1744 ["[o]nly when a court orders a minor

¹ Statutory references are to the Welfare and Institutions Code.

removed from the physical custody of his parent or guardian is the court required to specify the maximum term the minor can be held in physical confinement”].) Accordingly, we strike that portion of the juvenile court’s order.

DISPOSITION

The maximum term of confinement is stricken. As modified, the juvenile court’s order is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

JACKSON, J.